



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1310 Amendment in the Nature of a Substitute Proposed by the Governor (Patron Prior to Substitute – Deeds)

LD#: 23107664

Date: 03/22/2023

Topic: Personal information of judges and magistrates

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000 *
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Correctional Centers:**
None (\$0) **
- **Juvenile Detention Facilities:**
None (\$0) **

** Provided by the Department of Juvenile Justice

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Pursuant to § 30-19.1:4, fiscal impact statements prepared by the Virginia Criminal Sentencing Commission only include the estimated increase in operating costs associated with additional state-responsible prison beds and do not reflect any other costs or savings that may be associated with the proposed legislation.

Summary of Proposed Legislation:

The proposal amends § 18.2-186.4 related to using a person's identity with intent to coerce, intimidate or harass and adds § 18.2-419.1 to establish a new penalty for picketing or parading to obstruct or influence justice. Currently, it is a Class 1 misdemeanor for any person, with the intent to coerce, intimidate, or harass another person, to publish the person's name or photograph along with identifying information or identification of the person's primary residence address. The penalty is increased to a Class 6 felony if the individual who violates this section knew, or had reason to know, that the targeted person was a law enforcement officer; conviction for the Class 6 felony carries a mandatory minimum sentence of six months.

The proposal expands the Class 6 felony, currently applicable when the targeted person is a law enforcement officer, to include active or retired federal or Virginia judge, as defined in the proposed § 18.2-419.1, or a magistrate. Also, under the proposed § 18.2-419.1, it would be a Class 1 misdemeanor for any person, with the intent to interfere with or impede the administration of justice, to picket, parade, or demonstrate in or near a residence of a judge, juror, witness, court officer, or court employee, or an immediate family member of such person, or to use any sound truck, bullhorn, or similar device near any such residence. Lastly, the proposal prohibits the Commonwealth from publishing on the Internet the personal information of any active or retired federal or Virginia justice, judge, or magistrate who made a demand in writing to the Commonwealth that the Commonwealth not publish such information.

Analysis:

According to Circuit Court Case Management System (CMS) data for fiscal year (FY) 2017 through FY2022, there was one felony conviction under § 18.2-186.4 for using a law enforcement officer's identifying information to coerce, intimidate or harass. This violation was the only offense in the sentencing event, and the offender was given a state-responsible (prison) sentence of 3.5 years.

The number of incidents that would be covered under the expanded provisions of the proposal cannot be identified with available data.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the applicability of an existing felony offense, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. Existing data do not provide sufficient detail to estimate the number of new felony convictions that would result from enactment of the proposal. Therefore, the impact on prison bed space needs cannot be determined.

Local adult correctional facilities. By expanding an existing felony, the proposal may increase local-responsible (jail) bed space needs; however, the magnitude of the impact on jail bed space needs cannot be estimated with existing data.

Adult community corrections programs. Because the proposal could result in felony convictions and subsequent supervision requirements for additional offenders, the proposal may increase the need for adult community corrections resources. Since the number of cases that may be affected cannot be determined, the potential impact on community corrections cannot be quantified.

Virginia's sentencing guidelines. Convictions under § 18.2-186.4 are not covered by the sentencing guidelines as the primary (most serious) offense. However, convictions under this statute could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines would be necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), the proposal is not expected to increase direct care (juvenile correctional center or alternative commitment placement) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice (DJJ) reports that the proposal will not increase the bed space needs of juvenile detention facilities.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.